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4 CF TRAVERSE LLC,
5 Plaintiff,
6 v.
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8 AMPRIUS, INC.,
9 Defendant.

10 Case No. 20-cv-00484-RS (JCS)

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**ORDER DENYING ADMINISTRATIVE
MOTION TO FILE UNDER SEAL**

17 Re: Dkt. No. 73

18 The parties filed a joint letter raising a discovery dispute on August 7, 2020. *See* Joint
19 Letter (dkt. 74). Plaintiff CF Traverse LLC filed an administrative motion to file the joint letter
20 under seal, based on portions of Defendant Amprius, Inc.'s section of the joint letter that Amprius
21 had designated as confidential. Sealing Mot. (dkt. 73). In particular, CF Traverse moves to seal
22 the following two passages of Amprius's section of the joint letter:

23 (1) the Thl-5000 batteries were sold only to a Chinese mobile phone
24 company called THL 鸿嘉源 by Nanjing Amprius Limited; (2)
25 Nanjing Amprius Limited was a subsidiary of Amprius located in
26 China that dissolved in July of 2018 and no longer exists; and (3) the
27 manufacturing and sales of the Thl 5000 batteries occurred only in
China from 2014 to **March 2015**, with the total sales of about
\$600,000. Also, attached to Mr. Deihl's declaration was financial data
that shows the sales activities of Thl-5000 by Nanjing Amprius.

[. . .]

28 Amprius repeatedly made clear to Traverse that Amprius has two
29 manufacturing subsidiaries: (1) Amprius Technologies, Inc.
(“Amprius US”) in Fremont, California; and (2) Amprius (Wuxi) Co.,
Ltd. (“Amprius Wuxi”) located in Wuxi, China. Amprius US
develops, manufactures, and sells high energy density lithium-ion
batteries based on high capacity silicon **nanowire anodes**, which are
primarily used by the U.S. military and the aerospace industry. . . .
Amprius Wuxi develops, manufactures, and sells batteries using
different technology based on conventional anodes—which does not
involve any nanowire anodes—sold to customers in China.

Dkt. 73-4 at 4–5.

1 Amprius filed a declaration by its outside counsel Ty Callahan on August 10, 2020
2 asserting that the information sought to be sealed is “Amprius’s and its subsidiary’s internal
3 product development and internal financial information that is not publicly available,” and that it
4 should remain under seal for the following reasons:

5 Amprius has invested significant financial resources in the
6 development of its products. Amprius treats the information identified
7 above as highly confidential within its own business, and it is
8 provided with a high level of protection and security within Amprius.
9 Amprius and its subsidiaries develop and manufacture different
10 products within the U.S. and abroad, including for use by the U.S.
military and aerospace industry, and disclosure of confidential,
internal business information about its products could lead to
irreparable harm to Amprius’s and its subsidiaries’ businesses.
Should this information be publicly disclosed, Amprius would also
suffer both competitive and economic harm.

11 Callahan Decl. (dkt. 76) ¶¶ 3–4.

12 As a starting point, the procedure that the parties have employed to raise Amprius’s claim
13 of confidentiality is a questionable application of this Court’s local rules. Local Rule 79-5(e)
14 allows a party to seek sealing based on opponent’s designation of confidentiality under a
15 protective order, and permits the opponent to file a declaration stating reasons for sealing within
16 four days after the motion is filed, as an exception to the general procedure of Local Rule 79-(d),
17 which requires a party to file a declaration supporting sealing at the same time as its motion to
18 seal. Civ. L.R. 79-5(d), (e). The exception is necessary to account for the filing party’s potential
19 lack of knowledge or interest in its opponent’s reasons for sealing. Here, the material sought to be
20 sealed is in *Amprius*’s portion of a *joint* letter submitted by both parties. There is no reason
21 Amprius could not have filed the motion to seal under Local Rule 79-5(d), supported by a
22 declaration stating reasons for sealing, at the same time the joint letter was filed.

23 Regardless of that procedural issue, under either the generally-applicable “compelling
24 reasons” standard or the more relaxed standard of “good cause” for documents submitted with
25 motions only “tangentially related to the merits of a case,” *Ctr. for Auto Safety v. Chrysler Grp.,*
26 *LLC*, 908 F.3d 1092, 1101 (9th Cir. 2016),¹ Amprius has not met its burden to overcome the

28 ¹ Earlier Ninth Circuit decisions had applied the “good cause” standard only to documents
attached to non-dispositive motions. See, e.g., *Kamana v. City & Cty. of Honolulu*, 447 F.3d

1 presumption of public access to judicial proceedings and seal the material at issue. Callahan's
2 declaration does not indicate that Amprius's corporate structure or the locations of its subsidiaries
3 are sensitive information that must be sealed, and acknowledges publicly that Amprius sells
4 products "for use by the U.S. military and aerospace industry." Callahan Decl. ¶ 4. The only
5 information about product design contained in the material sought to be sealed is that some of
6 Amprius's batteries contain silicon nanowire anodes, which Callahan does not specifically assert
7 is confidential, and which appears prominently on the front page of Amprius's public website at
8 www.amprius.com. The only financial information concerns sales more than five years ago, by a
9 subsidiary of Amprius that has not existed for more than two years, of a product that Amprius no
10 longer sells. Callahan's declaration does not explain what harm, if any, would come from such
11 disclosure.

12 The motion to file under seal is therefore DENIED, and Amprius is ORDERED to file an
13 unredacted public version of the discovery letter no later than August 19, 2020. *See* Civ. L.R.
14 79-5(f)(2).

15 **IT IS SO ORDERED.**

16 Dated: August 12, 2020

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18 JOSEPH C. SPERO
Chief Magistrate Judge

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24 1172, 1179 (9th Cir. 2006) (discussing "'an exception to the presumption of access' to judicial
25 records . . . for a 'sealed discovery document [attached] to a non-dispositive motion'" (citation
omitted; brackets in original)). The more recent decision in *Center for Auto Safety*, which shifted
26 the focus from whether a motion is "dispositive" to whether it is "more than tangentially related to
the merits of a case," could be read as bringing "tangential" motions themselves, in addition to the
discovery documents attached thereto, within the "good cause" exception. *See Ctr. for Auto*
27 *Safety*, 809 F.3d at 1101 ("[W]e make clear that public access to filed *motions* and their
attachments . . . will turn on whether the motion is more than tangentially related to the merits of a
case." (emphasis added)). The Court need not decide that issue here, because Amprius has not
28 satisfied either standard.